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SERVICE DATE – DECEMBER 20, 2017

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 386X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT  
EXEMPTION—IN CHARLESTON, S.C.

Decided: December 19, 2017

Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 1.97 miles of rail line between milepost SC 0.33 and milepost SC 2.3 in Charleston, S.C. (the Line). Notice of the exemption was served and published in the Federal Register on August 9, 2016 (81 Fed. Reg. 52,733). The exemption became effective on September 8, 2016.

By decision and notice served on September 6, 2016, the Board imposed three conditions recommended by the Board's Office of Environmental Analysis (OEA) in an Environmental Assessment (EA) served August 12, 2016, and in its final EA dated August 30, 2016. The environmental conditions require that NSR shall: (1)(a) prior to beginning any salvage activities, consult with the South Carolina Department of Health and Environmental Control, Bureau of Water Pollution Control, Office of Ocean and Coastal Resource Management (DHEC-BWPC-OCCRM) to determine whether state coastal management consistency certification is required, pursuant to the Coastal Zone Management Act of 1986 (16 U.S.C. § 1451 *et seq.*); (b) not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to OEA and the Board has removed this condition; (2) consult with and notify the National Geodetic Survey (NGS) at least 90 days prior to beginning salvage activities that would disturb or destroy any geodetic station markers; and (3)(a) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places (National Register) until the Section 106 process of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108, has been completed; (b) report back to OEA regarding any consultations with the South Carolina Department of Archives and History (State Historic Preservation Office or SHPO) and the public; and (c) not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

In a Supplemental Final EA dated December 5, 2017, OEA states that it received two new comments in response to the conditions imposed in the September 6, 2016 decision. According to OEA, in a letter dated September 14, 2016, DHC-BWPA-OCCRM commented that

NSR plans to sell the underlying right-of-way to another entity for development of an urban park and intends to salvage the rail and related track material and smooth the roadbed to a level surface. DHC-BWPA-OCCRM states that NSR would not disturb the existing drainage systems, ballast, or underlying soil, nor would it cause any kind of burying or digging. Thus, DHC-BWPA-OCCRM concludes that the proposed abandonment and salvage operations would have no effects on coastal resources and that a coastal zone consistency determination is not required. Based on this comment, OEA has determined that the Board has satisfied its responsibilities under the Coastal Zone Management Act of 1986 and recommends that the Board remove the coastal zone consistency determination condition.

In the Supplemental Final EA, OEA also states that it received a comment on December 1, 2017, from the SHPO stating that, after reviewing additional information and conducting a site visit to the area on March 7, 2017, the SHPO has determined that the proposed abandonment would have no effect on historic resources listed on or eligible for inclusion in the National Register. Accordingly, OEA recommends that the Section 106 historic preservation condition imposed in the September 6, 2016 decision be removed.

Consistent with OEA's recommendations, the coastal zone consistency determination condition (Condition 1), and the Section 106 historic preservation condition (Condition 3) will be removed. The previously imposed environmental condition requiring NSR to consult with and notify the NGS regarding salvage activities (Condition 2) remains unchanged.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The coastal zone consistency determination condition and the Section 106 historic preservation condition imposed in the September 6, 2016 decision are removed.
3. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.